



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

Wednesday, March 11, 2020

Honorable Judge George Hanks, Jr.
United States District Judge
Southern District of Texas

**RE: Patrick Murphy v. Lorie Davis, et al., No. 4:19-cv-01106
Defendants' Amended Notice Regarding Additional Responsive
Discovery**

To the Honorable Judge George Hanks, Jr.:

Defendants submit this letter pursuant to the Court's local rules to withdraw a discovery objection previously asserted on the record during the discovery conference held on January 30, 2020. Plaintiff Murphy sought production of documents identifying the chaplain who served in the execution chamber for all executions dating back to 1982. See ECF No. 72 at 1. Defendants objected to the request, in part, because the request is overly burdensome given the method in which the documents would need to be collected. *Id.*

Following the conference, Defendants began to collect the witness lists from each execution packet, which were believed to be the sole existing document type that identifies the group of chaplains who serve a role in each execution. While discussing the documents, an unanticipated custodian mentioned the existence of emails that identify the group of chaplains. After a thorough search, fifty-one (51) emails were located. No emails prior to 2014 have been found.

When TDCJ officials discovered the existence of the emails, undersigned notified Plaintiff Murphy's counsel. The emails have been produced to Plaintiff's counsel, along with the witness lists from execution packets. ***The previous version of this notice (ECF No. 79) stated that the emails do not identify which chaplain from among the group of chaplains would be situated inside the execution chamber. However, upon further review, at least two of the emails indicate which chaplain was designated to be inside the execution chamber.*

In light of the emails, Defendants withdraw their discovery objection that the request is overly burdensome as to the executions for which an email exists. No Court action is sought or necessary. This letter is filed solely to notify the Court of additional documents that were not previously identified, and to withdraw the objection previously asserted on the record.

/s/ Leah O'Leary

LEAH O'LEARY

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A copy of this letter is being provided to Attorneys for Plaintiff Murphy: David R. Dow and Jeff Newberry.